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(3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

W. P. NO. 1511 OF 2004

P. R. No. 1595/04
Presented by Shri D.K. Singh
dated 17.8.04

PETITIONER

D.K. Singh, S/o Shri Shripal Singh, aged about 46 years, Occupation Service, Asstt. Engineer, Department of Rural Engineering Services Posted as Sub Divisional Officer, Marwahi Division, Tah. Pendra, Dist. Bilaspur.

VERSUS

RESPONDENTS

1. Chief Executive Officer Zila Panchayat,Bilaspur[CG]
2. Executive Engineer, Department of Rural Engineering Services, Marwahi Division, H.O. Pendra, Dist. Bilaspur
3. State of Chhattisgarh through Secretary Department of Panchayat Mantralaya D.K. Bhavan Raipur(C.G)

20.8.04.
Amended as per C.O. dt. 18.8.04

Allowed
20/8/04

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN NATURE OF CERTIORARI, MANDAMUS PROHIBITION AND OTHER SUITABLE WRIT OR WRITS, DIRECTION OR DIRECTIONS, ORDER OR ORDERS:

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 1511 OF 2004

D.K. Singh

vs.

Chief Executive Officer & Another

O R D E R

Post for 23-8-2004

Sd/-
Fakhruddin
Judge

23-8-2004

(79)

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 1511 OF 2004

D.K. Singh

vs.

Chief Executive Officer & Another

Shri Ashish Shrivastava, Counsel for the petitioner.
Shri Sandeep Dubey, Panel Lawyer for the State/respondent No.2.
Shri Rajesh Pandey, Counsel for the intervener.

O R D E R

Per Fakhruddin, J.

By this petition under Article 226 of the Constitution of India the petitioner has challenged the order dated 24-5-2004 (Annexure-P/1) which has been passed by the Chief Executive Officer, Zila Panchayat, Bilaspur, whereby penalty of stoppage of one increment with cumulative effect has been imposed on the petitioner and he has been attached to Zila Panchayat, Bilaspur. It is also pointed out that by the same order one Shri G.D. Vaishnav was directed to takeover charge and thereafter vide subsequent order dated 24-5-2004 (Annexure-P/7) instead of Shri G.D. Vaishnav, Shri C.L. Sharma was posted.

2. Notices were issued on 7-6-2004. Respondent No.1, Chief Executive Officer, Zila Panchayat, Bilaspur, has not appeared and respondent No.2, Executive Engineer, Department of Rural Engineering Services, Marwahi Division, appeared through the State counsel.

3. The ground urged by learned counsel for the petitioner is that the Chief Executive Officer is not empowered to take the aforesaid action against the petitioner. It is said that the administrative powers relating to Class-II officers are vested with the State Government vide Annexure-P/3. This position is not disputed by learned Panel Lawyer for the State/respondent No.2 and learned counsel for the intervener.

4. Learned counsel for the intervener pointed out that the complaints have been made and power ought to have been exercised by the State Government, which is competent authority. The power has not been exercised by the competent authority vested with it. Chief Executive Officer has no authority. Accordingly, the order passed by the Chief Executive Officer by imposing the penalty as well as the attachment is not sustainable. The order dated 24-5-2004 (Annexure-P/1) is set aside.

5. Counsel for the State as well as the intervener submit that liberty may be given to the State Government, which is a competent authority to proceed in the matter.

6. Having thus considered the State Government, which is the competent authority, may inquire and take action in the matter in accordance with law.

7. With the aforesaid observations, this petition stands disposed of.

8. Consequently M.W.P.No.1349/2004 also stands disposed of.

G/H

Sd/-
Fakhruddin
Judge